

# Tobacco Settlement

*and declining state revenues*

# Trends *Alert*

Critical information for state decision-makers



The Council of  
State Governments

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*Executive Director*  
Daniel M. Sprague

*Headquarters Office*  
P.O. Box 11910  
Lexington, KY 40578-1910  
(859) 244-8000  
FAX (859) 244-8001  
Internet: [www.csg.org](http://www.csg.org)

*Eastern Office*  
P.O. Box 20811  
New York, NY 10009  
(212) 912-0128  
Internet: [www.csgeast.org](http://www.csgeast.org)

*Midwestern Office*  
641 E. Butterfield Road  
Suite 401  
Lombard, IL 60148  
(630) 810-0210  
E-mail: [csgm@csg.org](mailto:csgm@csg.org)

*Southern Office*  
3355 Lenox Road, NE  
Suite 1050  
Atlanta, GA 30326  
(404) 266-1271  
E-mail: [slc@csg.org](mailto:slc@csg.org)

*Western Office*  
1107 9th Street  
Suite 650  
Sacramento, CA 95814  
(916) 553-4423  
Internet: [www.csgwest.org](http://www.csgwest.org)

*Washington Office*  
Hall of the States  
444 N. Capitol Street, N.W.  
Suite 401  
Washington, DC 20001  
(202) 624-5460  
Internet: [www.csg.org](http://www.csg.org)

March 2002

Dear State Official:

As the great majority of states face budget shortfalls in uncertain economic times, The Council of State Governments (CSG) is pleased to provide important information about a potential source of revenue on which many states have grown to rely. Signed in 1998, the Master Settlement Agreement (MSA) brought the promise of billions of dollars to states. But, as this CSG TrendsAlert details, a shift in tobacco consumption away from MSA participating manufacturers, inadequate enforcement of the MSA, and even an increase in tobacco manufacturing and consumption “under the radar” threaten this important revenue stream. Indeed, CSG estimates that states could lose as much as \$14 billion in projected MSA payments over the next nine years. If you want to ensure that your state receives its fair share of MSA proceeds, this Trends Alert is a must read.

TrendsAlert publications are the beginning of a new series of CSG products designed to rapidly identify and disseminate information about topics of critical importance to state officials in a rapidly changing world. Available in a variety of formats and on an expanding range of issues, TrendsAlerts will be continually produced and updated. Like the premiere issue you’re now holding, TrendsAlerts will contain original research and analysis targeted to the needs of state officials. And, as appropriate, they will contain suggested approaches to addressing the challenges that states face.

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Sincerely,

Daniel M. Sprague  
Executive Director



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## Tobacco Settlement *and declining state revenues*

March 2002

by  
James B. Carroll  
David A. Moss



The Council of  
State Governments

2760 Research Park Dr. • P.O. Box 11910 • Lexington, KY 40578-1910

Phone: (859) 244-8000 • Fax: (859) 244-8001 • [www.csg.org](http://www.csg.org)

## The Tobacco Settlement

Current trends indicate states will experience a \$14 billion decrease in projected tobacco settlement revenue over the next nine years. To date, states have collected \$1.6 billion less than projections made in the Master Settlement Agreement (MSA) signed in 1998. These losses are attributed to two main factors: decline in the consumption of cigarettes and a decrease in market share by the four largest cigarette manufacturers.

## Projections

According to a U. S. General Accounting Office report, through April 2001 states had received 11 percent less revenue than was originally projected under the MSA. Long-term projections for potential losses are even more startling.

States would receive nearly \$70 billion from the tobacco industry through 2010 based on original estimates of the MSA. However, the most recent estimates by CSG show up to a 20 percent reduction in these payments. By the end of this decade, CSG estimates annual payments will fall \$2 billion below original estimates (Figure 1.2).

## The Causes

The two main reasons for this loss in revenue are the decreasing number of smokers and a shift in market share among cigarette manufacturers.

The current rate of decline in consumption is estimated at 1.5 percent per year.<sup>1</sup> As more and more people quit smoking, tobacco settlement payments will also decrease.

Loss in market share by certain cigarette companies is also a factor in decreased revenue. Manufacturers that did not sign the MSA, known as Non-Participating Manufacturers (NPMs), have gained an estimated 0.8 percent<sup>2</sup> in market share

Figure 1.1 Projected MSA Revenue through 2010

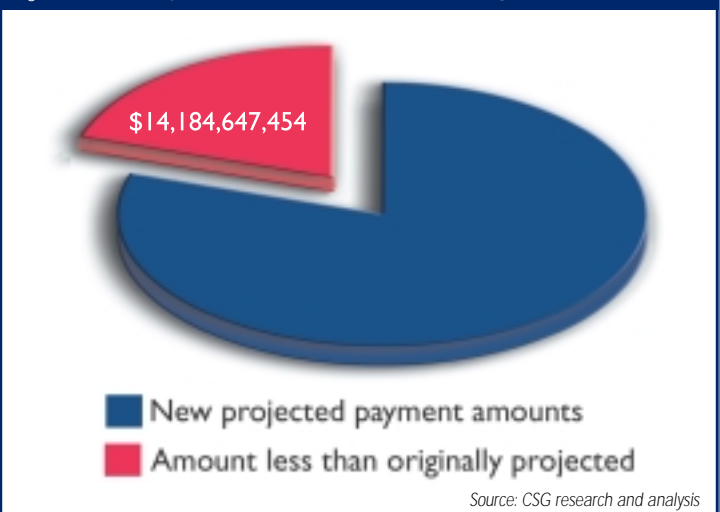


Figure 1.2 Projected Revenue Losses per Year (in millions of dollars)

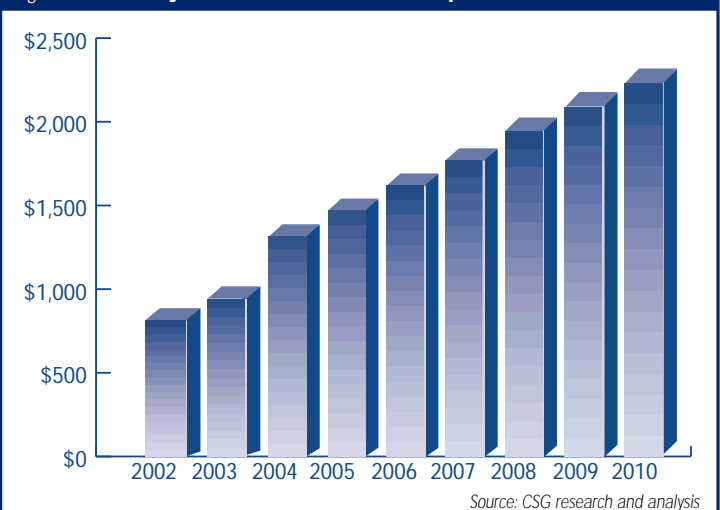
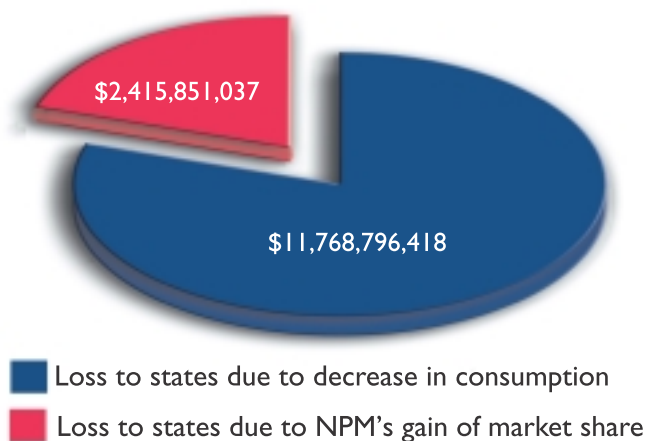


Figure 1.3 Factors Affecting Projected MSA Payments to States



Source: CSG research and analysis

each year since the MSA has been in effect. This increase will result in a \$2.4 billion loss in state revenue by 2010. Model legislation proposed in the MSA provides states with a tool for requiring NPMs to contribute to individually opened escrow accounts if the legislation is passed.

The following report provides a comprehensive review of the tobacco settlement and an explanation of the above figures. Included is an overview of the Master Settlement Agreement as well as a discussion of the significant issues affecting future payout amounts to states.

## Master Settlement Agreement

On November 23, 1998, the four largest cigarette manufacturers—the Original Participating Manufacturers (OPMs)—reached an agreement with 46 states, the District of Columbia and six territories to recoup monies spent on “tobacco related costs.”<sup>3</sup> According to the Master Settlement Agreement (MSA), state lawsuits against

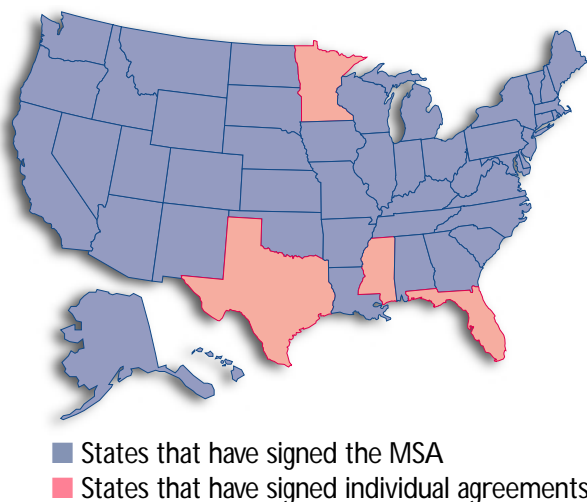
manufacturers would be dismissed, in exchange for settlement payments totaling more than \$200 billion over the next 25 years.

These four companies, Philip Morris, RJ Reynolds, Brown & Williamson, and Lorillard, represent the biggest tobacco companies in the industry and, in 1997, they controlled over 97 percent of the domestic cigarette market. Since 1998, an additional 31 Subsequent Participating Manufacturers (SPMs) have signed the MSA. These manufacturers are now subject to all the terms of the agreement as well, but make lower up front payments than do the OPMs. The total estimated

payout per year through 2025 is shown in Figure 1.5. Figure 1.6 shows the estimated payment per state.<sup>4</sup>

The four states not participating in the MSA—Minnesota, Florida, Texas, and Mississippi—had previously settled out of court with the original participating manufacturers. A total of \$39,844,300,000 was paid to these states.

Figure 1.4 Participants in the Master Settlement Agreement



Source: MSA Agreement

While much emphasis has been placed on the payments mandated by the MSA, it should be noted that this agreement imposes prohibitions and restrictions on cigarette marketing and advertising practices as well, including:

- eliminating tobacco billboards and transit ads
- prohibiting the use of cartoon characters to promote tobacco products
- prohibiting tobacco brand-name merchandise
- prohibiting tobacco brand-name sponsorship for concerts and events in which any contestants are under 18, or for football, baseball, soccer, or hockey
- prohibiting sampling of cigarettes except at age restricted venues
- and reaffirming the previously agreed upon prohibition on tobacco product placement in movies and on TV.<sup>5</sup>

## Payments to States

Each state receives payments based on a formula contained in the settlement agreement. California and New York received the largest amounts, each getting 12.3 percent of the \$206 billion, as evident in Figure 1.6.

The per year base amounts (listed in Figure 1.5) are subject to three adjustments annually. The inflation adjustment accounts for the change in the value of a dollar from year to year. The volume adjustment ensures payments to the states based on the total number of cigarettes sold by the participating manufacturers. Finally, the NPM adjustment accounts for gain of market share by non-participating manufacturers (NPM).

The Master Settlement Agreement requires manufacturers to pay states their designated amount by April 15 of each year. OPMs and SPMs deposit payments into a national escrow account. These funds are later distributed to the states based on the MSA allocation formula. What these dollars are used for is not dictated by the agreement, and it is up to each state to decide how to spend their settlement money. Some states have used these funds to supplement anti-tobacco programs, while others have used the money to boost spending in areas such as assistance to farmers (see Figure 1.9).

**Figure 1.5 Base MSA Payment Amounts**

2000 .....	\$4,500,000,000
2001 .....	5,000,000,000
2002 .....	6,500,000,000
2003 .....	6,500,000,000
2004 .....	8,000,000,000
2005 .....	8,000,000,000
2006 .....	8,000,000,000
2007 .....	8,000,000,000
2008 .....	8,139,000,000
2009 .....	8,139,000,000
2010 .....	8,139,000,000
2011 .....	8,139,000,000
2012 .....	8,139,000,000
2013 .....	8,139,000,000
2014 .....	8,139,000,000
2015 .....	8,139,000,000
2016 .....	8,139,000,000
2017 .....	8,139,000,000
2018 .....	9,000,000,000
2019 .....	9,000,000,000
2020 .....	9,000,000,000
2021 .....	9,000,000,000
2022 .....	9,000,000,000
2023 .....	9,000,000,000
2024 .....	9,000,000,000
2025 .....	9,000,000,000

Figure 1.6 Estimated Payouts Through 2025

## MSA States

Alabama .....	\$ 3,166,302,119	North Carolina .....	\$ 4,569,381,898
Alaska .....	668,903,057	North Dakota .....	717,089,369
Arizona .....	2,887,614,909	Ohio .....	9,869,422,449
Arkansas .....	1,622,336,126	Oklahoma .....	2,029,985,862
California .....	25,006,972,511	Oregon .....	2,248,476,833
Colorado .....	2,685,773,549	Pennsylvania .....	11,259,169,603
Connecticut .....	3,637,303,382	Rhode Island .....	1,408,469,747
Delaware .....	774,798,677	South Carolina .....	2,304,693,120
D. C. ....	1,189,458,106	South Dakota .....	683,650,009
Georgia .....	4,808,740,669	Tennessee .....	4,782,168,127
Hawaii .....	1,179,165,923	Utah .....	871,616,513
Idaho .....	711,700,479	Vermont .....	805,588,329
Illinois .....	9,118,539,559	Virginia .....	4,006,037,550
Indiana .....	3,996,355,551	Washington .....	4,022,716,267
Iowa .....	1,703,839,986	West Virginia .....	1,736,741,427
Kansas .....	1,633,317,646	Wisconsin .....	4,059,511,421
Kentucky .....	3,450,438,586	Wyoming .....	486,553,976
Louisiana .....	4,418,657,915	American Samoa .....	29,812,995
Maine .....	1,507,301,276	N. Mariana Is. ....	16,530,901
Maryland .....	4,428,657,384	Guam .....	42,978,803
Massachusetts .....	7,913,114,213	U.S. Virgin Is. ....	34,010,102
Michigan .....	8,526,278,034	Puerto Rico .....	2,196,791,813
Missouri .....	4,456,368,286		
Montana .....	832,182,431		
Nebraska .....	1,165,683,457		
Nevada .....	1,194,976,855		
New Hampshire .....	1,304,689,150		
New Jersey .....	7,576,167,918		
New Mexico .....	1,168,438,809		
New York .....	25,003,202,243		

## Non-MSA States

Florida .....	\$13,437,600,000
Minnesota .....	6,573,800,000
Mississippi .....	4,162,500,000
Texas .....	15,670,400,000

Source: [www.naag.org](http://www.naag.org)

## Participating and Non-Participating Manufacturers

Participation in the MSA by cigarette manufacturers is not universal. Initially, only the four largest companies were bound to the conditions dictated in the settlement. Later, an additional group, the Subsequent Participating Manufacturers or SPMs, signed the agreement as well. A list of these producers is provided in the Appendix.

Those manufacturers that are neither OPMs or SPMs are known as Non-Participating Manufacturers (NPMs). At the time the MSA was negotiated, these companies accounted for less than one percent of the market share of the tobacco industry. Since then, however, sales by NPMs (see Appendix) have grown substantially.<sup>6</sup> This growth has the potential to seriously affect the amount of money states receive.

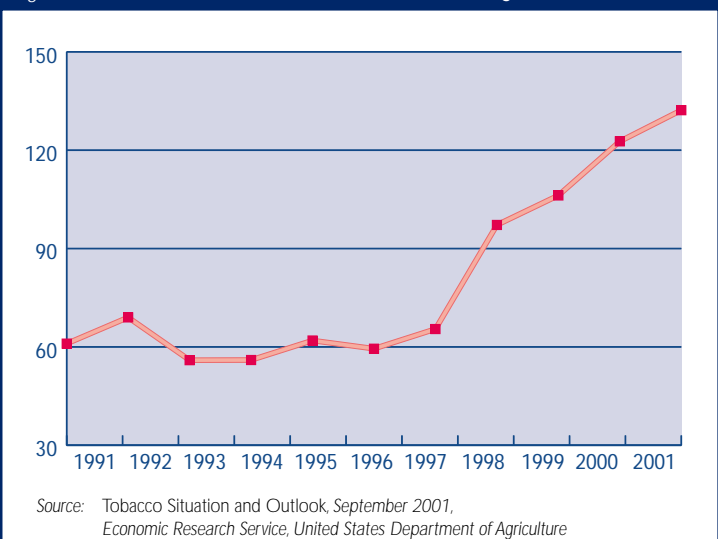
### *Role of Non-Participating Manufacturers*

In 1997, the OPMs controlled a 97.35 percent share of the United States cigarette market, leaving over 2 percent for what are now referred to as SPMs and NPMs, according to industry estimates.<sup>7</sup> Because of this market strength, little attention was paid to cigarette manufacturers not participating in the MSA. By the year 2000, however, the OPMs said they controlled only 94.5 percent of market share.<sup>8</sup>

While industry watchers debate what has led to this change, one argument put forth is the increase in the cost of a pack of cigarettes. The payments mandated by the MSA have resulted in the participating tobacco manufacturers raising prices. In fact, the equivalent of the previous 16 years of price increases were made by the OPMs within 16 months of the MSA being signed. An evaluation of price shows that there has been a significant increase in the price of premium brand cigarettes over the last four years (Figure 1.7).

OPM industry experts claim that during this same period of time, NPMs have kept prices at or near pre-MSA levels, with a price spread of as much as \$17 per carton between NPM brands and OPM premium brands.<sup>9</sup> This price discrepancy, they say, increased the appeal of non-premium brand cigarettes to those consumers who make

Figure 1.7 Wholesale Price of Premium Brand Cigarettes, 1991–2001





purchasing decisions based solely on cost. In effect, the OPMs contend that an unfair market has been fostered that allows NPMs to undercut their prices.

When crafting the MSA, this possibility was considered and, in an effort to avoid penalizing participating manufacturers, the writers included a provision that would allow states to hold NPMs to a similar standard. Exhibit T of the MSA provided states with model legislation that, if passed, requires NPMs to make deposits into an escrow account in each state proportional to the number of cigarettes sold in that state each year. The legislation, which has passed in all 46 states and six territories, is designed to effectively level the playing field between OPMs and NPMs and to protect the states' revenue stream by providing the attorneys general with enforcement tools.

To help ensure OPMs that states would follow through with Exhibit T, a penalty provision was included in the MSA. According to the provision, any state that has not enacted or properly enforced Exhibit T for a given year has its payment decreased according to an NPM adjustment. The NPM adjustment is calculated by multiplying the market share loss for the OPMs from the previous year in a given state by 3. In other words, a 2 percent loss of market share by the OPMs would result in a 6 percent reduction in the allocated payment to the respective state.

## Impact on State Revenues

States should be aware of how declining consumption and the decrease in market share experienced by OPMs affects state revenues. A study conducted by the

U.S. General Accounting Office in 2001 showed significant variations from the projected totals thus far. According to initial MSA calculations, by April 2001, states should have received \$15.4 billion in settlement dollars. However, actual payment receipts reveal only \$13.8 billion had been paid to the states, a shortfall of \$1.6 billion (Figure 1.8).

Based on the states' plans to spend tobacco settlement money (Figure 1.9), these fiscal shortfalls will affect a significant number of state agencies and departments. Using the state allocations chart, it can be concluded that state health bud-

Figure 1.8 Amount Received as of April 2001 (in thousands of dollars)



gets alone are short over \$660 million from the tobacco settlement payments to date. This estimated shortfall is based on the percentage of state spending allocated to health (41.3) multiplied by the total shortfall to date (\$1.6 billion).

What is causing this decrease? The two main factors contributing to reduced payments from the tobacco companies are (1) a decline in the consumption of cigarettes and (2) the loss of market share by the participating manufacturers. Figure 1.10 shows that of the \$1.6 billion in lost revenue, over 89.4 percent can be attributed to decreased sales, while 8.9 percent is due to decreased market share.

### Declining Consumption

As evident in Figure 1.11, cigarette consumption has dropped every year since 1997 and is roughly 15 percent below what it was ten years ago.

According to the MSA, each year the payment made by the tobacco manufacturers is subject to a volume adjustment. This adjustment requires manufacturers to pay a settlement to the states that is directly related to the volume of cigarettes consumed in the states. The adjustment is calculated by multiplying the base settlement amount for the year by the formula below. This calculation determines the exact amount paid to each state respective to the paying company's market share.

$$.98 \times \frac{(\text{OPMs Prior Year United States Cigarette Sales minus 1997 Sales})}{(\text{1997 US Cigarette Sales by OPMs})}$$

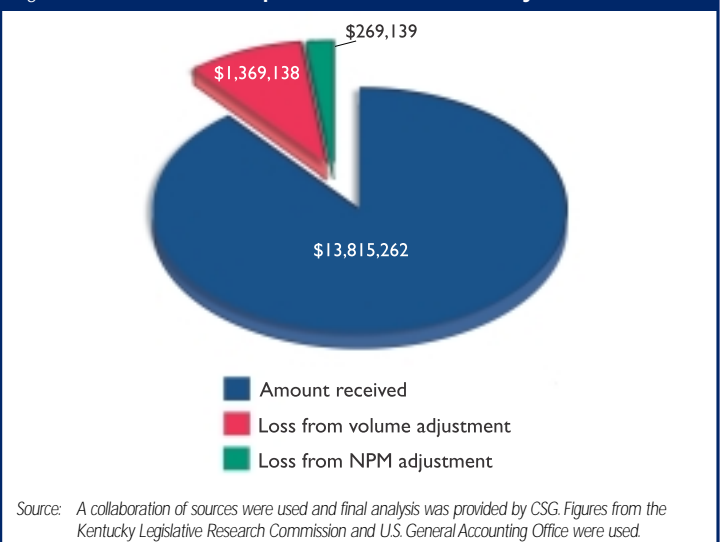
Based on the information provided in Figure 1.10, the reduction in tobacco settlement payments to date due to decreased consumption is understandable. The projected payments in Figures 1.5 and 1.6 were calculated assuming the number of cigarettes sold would stay the same. The projected losses to state revenues are the result of a 1.5 percent reduction in consumption per year for the last three years, for a total reduction of 4.5 percent.

Figure 1.9 State Allocation of Tobacco Settlement Payments

Spending Categories	Percentage of Total Allocation	Number of States
Tobacco	6.8	36
Assistance to Farmers	5.6	7
Health	41.3	35
Education & Social Services	9.3	19
Tax Reductions	3.6	2
Infrastructure	2.5	10
General Purposes/Reserves	10.6	23
Unallocated	20.2	21

Source: U.S. GAO, States use of Master Settlement Payments, 2001

Figure 1.10 Factors Responsible for Reduced Payments (in thousands)



### Shifting Market Share

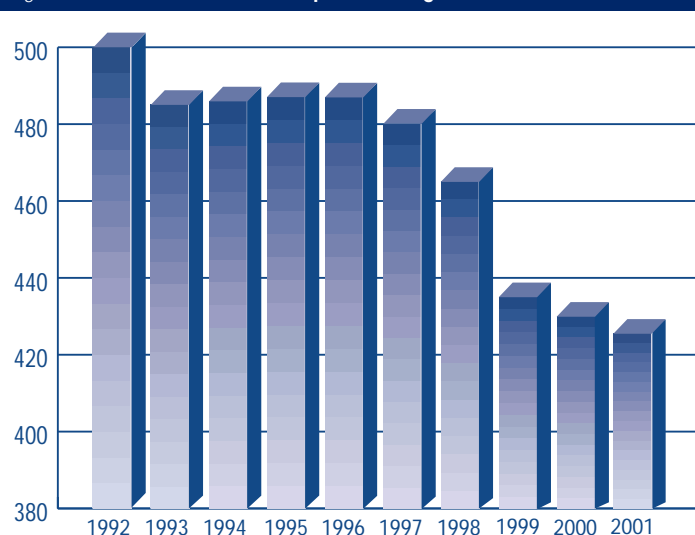
The other factor contributing to decreased payments to the states is accelerated growth in sales by NPMs. This change affects MSA payments in a number of ways. In relation to the volume adjustment, each cigarette sold by an NPM is one that is not sold by an OPM or an SPM. With an estimated gain of over 2.5 percent of the U.S. cigarette market since 1997, this factor has contributed to the reduction in sales by the OPMs and SPMs, and thus a loss of revenue expected by the states.

The second factor is more complicated. As previously stated, Exhibit T of the MSA—the model NPM legislation—was written to encourage states to force NPMs to deposit money into escrow accounts in each state. According to the MSA, any state that has not enacted or properly enforced Exhibit T is, for a given year, subject to a separate NPM adjustment. Again, the NPM adjustment is calculated by multiplying the market share loss for the OPMs from the previous year in a given state by 3. In other words, a 2 percent loss of market share by the OPMs would result in a 6 percent reduction in the allocated payment to the respective state. According to the Kentucky Legislative Research Commission, states have incurred over \$200 million in penalties related to the NPM adjustment because they had not passed the piece of model legislation through 2001. However, now that all 46 states and 6 territories have made Exhibit T law, this adjustment will not be an issue in the future as long as the law is properly enforced.

Having passed the legislation, however, states still face problems concerning

sales by NPMs. First, according to a CSG survey, many NPMs are not complying with the law and in fact, attorneys general in 36 states have filed lawsuits against NPMs for failing to make escrow payments. NPMs are typically small firms with the ability to operate unnoticed in the states, thus many are not contributing to escrow accounts as prescribed by the states. Those within the tobacco industry fear that unless NPMs are forced to deposit a percentage of their sales revenue into escrow accounts, they will continue to garner more of the market because they can charge lower prices. Significantly for the states, when NPMs that do not make required escrow payments take market share from OPMs, MSA payments are

Figure 1.11 Total US Consumption of Cigarettes, 1992–2001 (in billions)



Source: Tobacco Situation and Outlook, September 2001  
Economic Research Service, United States Department of Agriculture  
Note: Figures for 2001 are estimated and subject to revision.

reduced directly. And, estimates of declining tobacco consumption become increasingly unreliable since one important mechanism to track consumption—the MSA itself—is being thwarted.

Second, the money placed in escrow by the NPMs is not available for state use. The money is deposited into an escrow account and is to remain in that account for 25 years in the event that the state files suit against the manufacturer. Prevailing in such a lawsuit is the only way for a state to obtain this money. However, if the states do not sue for the money, it is returned to the originating company in 2026.

## Conclusion and Recommendation

States—already faced with budget shortfalls and an uncertain economy—must be aware of potential decreases in tobacco settlement dollars due to declining sales, shifting market share, and other factors. States should plan budgets accordingly and take action to ensure full enforcement of the MSA.

Shifting market share from companies making MSA payments can be addressed by states by enacting legislation that makes the enforcement of Exhibit T easier, a measure currently being considered by legislatures in a number of states. For example, South Dakota Senate Bill 21, which has passed the House and Senate, provides that the state tax stamp shall not be affixed to cigarettes produced by non-participating manufacturers not compliant with the Exhibit T statute. By tying the state tax stamp to their individual escrow account, it will be easier for states to track the NPM activity and preserve MSA payments.



## Additional Material Related to the Master Settlement Agreement

### Legislative Documents

#### Master's Settlement Agreement (MSA) Legislation

- Model Legislation—Utah HB 132<sup>10</sup>—Signed by Governor 3/22/99  
—46 States and 4 territories have enacted the MSA
- Sample Statute for calculating payments under the MSA—PA ST 35 PS. 5674

#### Non-Participating Manufacturers (NPM) Legislation

- Model Legislation—California SB 822<sup>11</sup>—Chaptered 10/10/99
- Statutes resulting from NPM Legislation

### Executive Documents

- Louisiana—Executive Order, Tobacco Settlement Payment Options Task Force
- Vermont—State Treasurer's Recommendation on Tobacco Settlement Money

### CSG Materials

- Agricultural Policy Task Force Resolution on State Enforcement of the Tobacco Master Settlement Agreement, 2001
- "States have chosen divergent ways to use tobacco money"<sup>12</sup>, Laura Clewett, *Stateline Midwest*, July 2001, Vol. 10, No. 7
- "Clouds of doubt"<sup>13</sup>, Tim Anderson, *Stateline Midwest*, January 2000, Vol. 9, No. 1
- "States' money up in smoke"<sup>14</sup>, Matthew A. Bowdy, *State Government News*, June/July 1999
- "Waiting to exhale"<sup>15</sup>, Chester Hicks, *State Government News*, June/July 1999
- "Tax cuts or trust funds"<sup>16</sup>, Paul Cohan, *Stateline Midwest*, April 1999, Vol. 8, No. 4
- "What should Kansas do with the settlement?"<sup>17</sup>, Rep. Ed McKechnie, *Stateline Midwest*, April 1999, Vol. 8, No. 4
- "Tide turns against tobacco in Indianapolis"<sup>18</sup>, Rep. Mike Murphy, *Stateline Midwest*, March 1999, Vol. 8, No. 3
- "A smoky windfall"<sup>19</sup>, Julie Anderson, *State Government News*, January/February 1999
- "Holding Big Tobacco accountable"<sup>20</sup>, Attorney General Jeff Modisett, *Stateline Midwest*, June 1998, Vol. 7, No. 6

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<sup>1</sup> 1.5% was an average based on declining consumption of cigarettes over the last four years or since MSA was signed

<sup>2</sup> .8% is a conservative estimate of future market share gained by NPM's calculated by CSG Analysts, based on a comparison of recent tobacco market reports

<sup>3</sup> USGAO—State Use of Master Settlement Agreement Payments

<sup>4</sup> Both 1.5 & 1.6 are taken from the MSA

<sup>5</sup> "Summary of Multistate Tobacco Settlement" <http://tobaccofreekids.org/reports/settlements/>

<sup>6</sup> PriceWaterhouseCoopers

<sup>7</sup> *Tobacco Reporter*, Fisher, Brandy, "Outlaws" Sept. 2001.

<sup>8</sup> Ibid.

<sup>9</sup> <http://www.crsnokes.com/smokeshop/>

<sup>10</sup> <http://ssl.csg.org/dockets/20cycle/tobacco/20ebills/2620E51uthb132.html>

<sup>11</sup> [http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_0801-0850/sb\\_822\\_bill\\_19991010\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_0801-0850/sb_822_bill_19991010_chaptered.pdf)

<sup>12</sup> <http://stars.csg.org/csg-midwest/stateline/2001/july/0701mws106.pdf>

<sup>13</sup> <http://stars.csg.org/csg-midwest/stateline/2000/jan/0100mws11.pdf>

<sup>14</sup> <http://stars.csg.org/sgn/1999/jun-jul/0799sgn36.pdf>

<sup>15</sup> <http://stars.csg.org/sgn/1999/jun-jul/0799sgn19.pdf>

<sup>16</sup> <http://stars.csg.org/csg-midwest/stateline/1999/apr/0499mws11.pdf>

<sup>17</sup> <http://stars.csg.org/csg-midwest/stateline/1999/apr/0499mws19.pdf>

<sup>18</sup> <http://stars.csg.org/csg-midwest/stateline/1999/mar/0399mws19.pdf>

<sup>19</sup> <http://stars.csg.org/sgn/1999/jan-feb/0299sgn29.pdf>

<sup>20</sup> <http://stars.csg.org/csg-midwest/stateline/1998/jun/0698mws19.pdf>

## MSA Participating Manufacturers

### *Original Participating Manufacturers (OPMs)*

- Brown & Williamson  
Louisville, Kentucky
- Lorillard Tobacco Co.  
Greensboro, North Carolina
- Phillip Morris Inc.  
New York, New York
- R.J. Reynolds Tobacco Co.  
Winston-Salem, North Carolina

### *Subsequent Participating Manufacturers (SPMs)*

- Alliance Tobacco Corp.  
Somerset, Kentucky
- Commonwealth Brands Inc.  
Bowling Green, Kentucky
- Cutting Edge Enterprises Inc.  
Baltimore, Maryland
- Daughters & Ryan Inc.  
Smithfield, North Carolina
- Dhanraj International Inc.  
Garden Grove, California
- Easter Co. S.A.E.  
Cairo, Egypt
- House of Prince A/S  
Soborg, Denmark
- Imperial Tobacco Ltd./ITL (USA) Ltd.  
Montreal, QC, Canada
- Japan Tobacco International U.S.A. Inc.  
New York, New York
- King Maker Marketing  
Paramus, New Jersey
- Kretek International  
Moorpar, California
- Landmark Corp.  
Las Vegas, Nevada

- Lane Ltd.  
Tucker, Georgia
- Liggett Group Inc.  
Mebane, North Carolina
- Lignum-2 Inc.  
San Leandro, California
- Mac Baren Tobacco Co. A/S  
Svendborg, Denmark
- The Medallion Co. Inc.  
Richmond, Virginia
- Monte Paz  
(Compania Industrial de tabacos Monte Paz S.A.)  
Montevideo, Uruguay
- P.T. Djarum  
Winton-Salem, North Carolina
- Peter Stokkebye International A/S  
Seenes, Denmark
- Planta Tabak-manufaktur GmbH & Co.  
Berlin, Germany
- Poschl Tabak GmbH & Co. KG  
Geisenhausenb. Landshut, Germany
- Premier Manufacturing Inc.  
Chesterfield, Missouri
- Santa Fe Natural Tobacco Co. Inc.  
Santa Fe, New Mexico
- Sherman 1400 Broadway N.Y.C. Inc.  
New York, New York
- Seita  
Paris, France
- Tobacco & Candy International Inc.  
Miami, Florida
- Top Tobacco LP  
Glenview, Illinois

Source: Tobacco Reporter-Fisher, Brandy "Outlaws" Sept. 2001

## MSA Non-Participating Manufacturers (NPMs)

- Alternative Cigarettes Inc.  
Buffalo, New York
- Asia Pacific Trading Group Bailey Tobacco  
Honolulu, Hawaii
- Bengal Tobacco Corp.  
Keysville, Virginia
- Canadian Overseas Sales Co.  
Davie, Florida
- Canstar (USA) Inc.  
California
- Carolina Tobacco Co.  
Miami, Florida
- Cherokee Indian Reservation  
Portland, Oregon
- Choice Tobacco (USA) Ltd.  
North Carolina
- Cigarettes Cheaper (Leonidas Trading Co. [LTC])  
Manahawkin, New Jersey
- CigTec Tobacco LLC  
Benicia, California
- Consolidated Cigar  
Charles City, Virginia
- Davidoff of Geneva Inc.  
Fort Lauderdale, Florida
- Dominican Tobacco Imports  
Hartford/Stamford, Connecticut
- Dosal Tobacco Co.  
New York, New York

## MSA Non-Participating Manufacturers (NPMs)

- Everglades Brands Corp.  
Miami, Florida
- F&K Cigar Co.  
Coral Gables, Florida
- Farmers Tobacco Co. of Cynthiana KY Inc.  
St. Louis, Missouri
- G.A. Andron & Company  
Cynthianna, Kentucky
- International Tobacco Partners Limited  
Deer Park, New York
- Jash International Inc.  
Great Neck, New York
- Joseph A. Anderson d/b/a Smokin' Joes  
DeKalb, Illinois
- Madison Cigarettes Inc.  
Sanborn, New York
- Mike's Cigar Distributors Inc.  
Wilmington, Delaware
- Multinational Tobacco Inc.  
Miami, Florida
- NAFTA  
Miami, Florida
- National Tobacco Co. Inc.  
d/b/a 3B Holdings Inc.  
Las Vegas, Nevada
- Native American Council  
Blain, Washington
- Native Trading Associates  
Washington, D.C.
- North American Trading  
Akwasne/Hogansburg, New York
- North Atlantic Operating Co.  
San Diego, California
- Omaha Nation Tobacco Co.  
Macy, Nebraska
- Patriot Tobacco Co.  
Denton, Texas
- Phillips & King  
City of Industry, California
- Ponderosa Enterprises  
Las Vegas, Nevada
- Quintin & Co.  
Steamboat Springs, Colorado
- RBJ Sales Inc.  
Dresden, Tennessee
- Red Hawk Tobacco Co.  
Owenton, Kentucky
- Remedy Tobacco  
Tallevast, Florida
- Republic Tobacco Co.  
Glenview, Illinois
- S&M Brands  
Keysville, Virginia
- Seneca Cayuga Tobacco Co.  
Grove, Oklahoma
- Single Stick Inc.  
Scottsdale, Arizona
- Smokin' Joes  
Sanborn, New York
- Southern Central Sea Tobacco Import &  
Export (USA) Inc.  
South Al Monte, California
- Southern Tobacco Inc.  
Gaffney, South Carolina
- Southern Tobacco Inc.  
Tampa, Florida
- Southern United Network LLC  
Crossville, Tennessee
- Sovereign Seneca Nation  
Salamanca, New York
- Sovereign Tobacco Co.  
Irving, New York
- Spirit Enterprises  
Beverly Hills, California
- Star Scientific Inc.  
Chester, Virginia
- Sun Tobacco Ltd.  
Miami, Florida
- T&M Tobacco Company  
Miami, Florida
- The Havana Group Inc.  
North Canton, Ohio
- The Tobacco Shop  
Indianapolis, Indiana
- Third Millenium Cigars & Associates  
Tamarac, Florida
- US Avermore Ltd.  
Rimforest, California
- USA Tobacco Distributors Inc.  
Scottsdale, Arizona
- VI Sales  
California
- Virginia Leaf Inc.  
Front Royal, Virginia
- West Park Tobacco  
Richmond/Chester, Virginia
- Wolf Pack Tobacco  
(mail-order division of Cloud and Co.)  
Salamanca, New York
- M&R Holdings  
Pink Hill, North Carolina
- NTI Inc.  
Carson, California
- Transworld Tobacco Ltd.  
La Verne, California
- United Ninio (MBR Intl.)  
Miami, Florida
- 3B Holdings  
Lewiston, Idaho

Source: Tobacco Reporter-Fisher, Brandy "Outlaws" Sept. 2001



## Glossary of Terms

**Consumer Price Index (CPI)**—Measures inflation from year to year based on price changes.

**Escrow Account**—A trust account established for the purpose of holding funds.

**Inflation Adjustment**—An adjustment made to the MSA payments to account for the decrease in the value of the dollar during the previous year. The adjustment is calculated by multiplying the base amount by the greater of 3% or the CPI.

**Master Settlement Agreement (MSA)**—A civil agreement reached by 46 states and settling tobacco manufacturers. Under the agreement all claims or potential claims against the manufacturers are settled and resolved, while the manufacturers agree to, among other things, pay an estimated \$206 billion to the states over the next 25 years.

**Model NPM Statute**—This model legislation is given as Exhibit T of the MSA. The law forces NPMs to set up an escrow account in each state in which they do business and deposit funds in the event that they are sued by the state. If no lawsuit is brought against the NPM by 2025, the funds are returned to the manufacturers.

**Non-Participating Manufacturer (NPM)**—Tobacco manufacturers that have not signed the MSA.

**NPM Adjustment**—Adjustment to the MSA payment that serves as a penalty levied against the states that do not have or do not properly enforce the model NPM statute listed above. The adjustment is calculated by multiplying the OPMs market share loss in a given state in the previous year by 3. The base amount of the payment is then reduced by this percentage.

**Original Participating Manufacturer (OPM)**—The major tobacco manufacturers that signed the MSA in November of 1998—Philip Morris, R.J. Reynolds, Brown & Williamson and Lorillard.

**Previously Settled States**—States that settled with the major tobacco companies prior to the MSA—Florida, Minnesota, Mississippi and Texas.

**Subsequent Participating Manufacturer (SPM)**—Manufacturers that have signed the MSA since November 1998.

**Volume Adjustment**—An adjustment made to the base settlement payment each year that accounts for a change in the manufacturers' volume of sales.